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In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 618

INTERNATIONAL BASIC ECONOMY CORPORATION,
PETITIONER,

LUIS BLANCO LUGO,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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In the
Supreme Court of the United States

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No.

INTERNATIONAL BASIC ECONOMY CORPORATION,
PETITIONER,

v.

LUIS BLANCO-LUGO,
RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

The petitioner, INTERNATIONAL BASIC ECONOMY CORPORATION, (herein called IBEC) prays that a Writ of Certiorari issue to review the judgment of United States Court of Appeals for the First Circuit entered in the above case on November 6, 1959.

Opinions Below

The first opinion of the Court of Appeals for the First Circuit (R. 5 App. 126*) is reported at 267 F.2nd 263. The

* References to the typewritten record certified by the Clerk of the Court of Appeals are given first as R. . References to the Appendix attached to this petition are given as App. . Since the record below was not printed, petitioner has, for the convenience of the Court, printed in the Appendix, portions of the record referred to in the petition.

second opinion (R. 293, App. 130) of this court, handed down November 6, 1959, has not yet appeared in the Federal reports. The Supreme Court of Puerto Rico rendered no opinion. The opinion of the Superior Court of Puerto Rico is not officially reported, but is annexed hereto (R. 24, App. 9).

Jurisdiction

The judgment of the Court of Appeals for the First Circuit was made and entered on November 6, 1959 (R. 293, App. 130), and a copy hereof is appended to this petition in the Appendix at p. 130. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Questions Presented

This case, commercial in its origin, presents, at this state, substantial and significant questions both of basic fairness and of the breadth of judicial review in the Federal judicial system. The case has been heard only once on its merits before Judge Luis Polo, of the Tribunal of the First Instance of Puerto Rico, a judge whose partiality and bias appears on the face of his opinion and judgment. No other Court has reviewed this judgment. No Federal court has been in a position to review this judgment. Under recent Puerto Rican legislation adopted in 1958 even this Court may not be able to review the judgment.

The heart of this case lies in the limitations which may be placed on this Court's jurisdiction over cases arising under law created by the United States: Can a legislature whose sovereignty emanates from the United States deny this Court the opportunity to review a final judgment of an inferior tribunal whose powers equally depend upon this Federal grant of authority? Under the new Puerto Rican

legislation, Puerto Rico is the only jurisdiction within the Federal system of law where a litigant may be denied the possibility of a judgment by a local court being reviewed in full by this Court or by any Federal Court. The validity of this Puerto Rican legislation which results in such an extraordinary denial of access to the highest court of the land and to any Federal court is at issue here.

Accordingly, the following questions are presented to this Court:

1. May a legislature, within the system of Federal law, and acting under a delegation of power from Congress, enact a statute which effectively denies opportunity of review by this Court of a final judgment of an inferior local tribunal, which also owes its authority and power to Congress?

2. May the legislature of Puerto Rico enact a law which denies opportunity of review by the Court of Appeals for the First Circuit without violating both the Constitution of Puerto Rico approved by Congress and the right of appeal given litigants in Puerto Rico by 28 U.S.C. Sec. 1293?

3. Should the Court of Appeals for the First Circuit have reviewed the judgment of the Superior Court of Puerto Rico when the Supreme Court of Puerto Rico refused to review this judgment?

4. Was it a patent abuse of discretion by the Supreme Court of Puerto Rico to refuse to review a case where the partiality and bias of the judge deciding the case appeared on the face of the opinion and judgment?

Constitutional Provisions and Statutes Involved

1. 62 *Stat.* 929, 28 *U.S.C.A.* Sec. 1293 (1948):

"The courts of appeals for the First and Ninth Circuits shall have jurisdiction of appeals from all final decisions of the supreme courts of Puerto Rico and Hawaii, respectively, in all cases involving the Constitution, laws or treaties of the United States, or any authority exercised thereunder, in all habeas corpus proceedings, and in all other civil cases where the value in controversy exceeds $5,000, exclusive of interest and costs."

2. 64 *Stat.* 319, 48 *U.S.C.A.* Sec. 731(d) (1950):

"Upon adoption of the constitution by the people of Puerto Rico, the President of the United States is authorized to transmit such constitution to the Congress of the United States if he finds that such constitution conforms with the applicable provisions of sections 731b-731e of this title and of the Constitution of the United States.

Upon approval by the Congress the constitution shall become effective in accordance with its terms."

3. *Constitution of Puerto Rico*, Article V, Sec. 3 (1952):

"The Supreme Court shall be the court of last resort in Puerto Rico and shall be composed of a Chief Justice and four Associate Justices. The number of Justices may be changed only by law upon request of the Supreme Court."

4. Title 4, Sec. 37, *Laws of Puerto Rico Annotated* (1958):

"(a) Except as provided in clause (d) of this section, final judgments rendered by the Superior Court in civil cases involving or deciding a substantial constitutional question under the Constitution of the United States or the Constitution of Puerto Rico, and final judgments in criminal cases originated in the Superior Court, shall be appealable to the Supreme Court. . . ."

"(b) Any other final judgment of the Superior Court may, on request of the party aggrieved, be reviewable by the Supreme Court, by way of certiorari issued at the discretion of the court. . . ."

"(c) The Supreme Court of Puerto Rico may, in the exercise of its discretion, issue a writ of certification to bring forthwith before it and to hear and resolve any case pending on appeal or review pending before the Superior Court, if it deems that the public importance thereof justifies a deviation from the regular procedure and a direct adjudication by the Supreme Court. . . ."

"(d) Judgments rendered by the Superior Court in appeals coming from the District Court and in proceedings for review, based on the record of the proceedings had at the administrative level, or by way of trial de novo, of the rulings, orders or resolutions of administrative organizations, may be reviewed by the Supreme Court by way of certiorari to be issued at its discretion and not otherwise."

"(c) Any decision of the Superior Court may be reviewed by the Supreme Court by way of certiorari to be issued at its discretion, and not otherwise."

Statement

This case began with a plan of the respondent, Blanco-Lugo, to take advantage of certain Puerto Rican merchants. Failing in this plan, in which he hoped to use the petitioner's credit to his profit and to the detriment of the Puerto Rican merchants, Blanco-Lugo sued the petitioner in the Superior Court of Puerto Rico, San Juan Section. Here, there occurred a gross and grotesque miscarriage of justice. This miscarriage of justice has been prolonged and maintained by the existence of Puerto Rican legislation enacted in 1958 which precludes review by the Court of Appeals for the First Circuit or by this Court.

The respondent, Blanco-Lugo, is a lawyer and a member of the Bar of Puerto Rico. The petitioner, IBEC, a New York corporation, was organized by the Rockefellers (R. 118, App. 21) as a means of bringing American capital and methods to Latin America.

In May 1956, IBEC looked into the possibility of buying a chain of supermarkets in Puerto Rico. Accordingly, it authorized its lawyer in Puerto Rico, one Gonzalez, to investigate the possibility of purchasing this chain (R. 25, App. 10). To protect the IBEC interest in the transaction, Gonzalez, in turn, asked Blanco-Lugo, a member of the Puerto Rican bar not identified with the IBEC interests, to inquire into the possibility of purchase (R. 25, App. 10).

On June 24, 1956, a conference was held between the owners of the supermarkets and Gonzalez and one Fonseca, local manager of the Supermarket Division of IBEC (R.

27, App. 11). At the conclusion of the conference, Gonzalez promised to recommend to the authorized officers of IBEC the purchase of the supermarkets at the price of $680,000 (R. 27, App. 12).

The supermarkets were in a failng condition and an attachment of their property was threatened by the Puerto Rican merchants organized as the Chamber of Wholesalers (R. 26, App. 10). The debts owed to the Chamber by the supermarkets amounted to approximately $169,000 (R. 30, App. 14). On June 25, 1956, Blanco-Lugo decided to purchase these debts with his own money. Accordingly, he personally borrowed the money to make the purchase (R. 145, App. 40). It was his plan that he and the lawyer for the supermarkets would both make a profit by buying the debts at 50% of their true value (R. 150, App. 43-44). According to Blanco-Lugo's testimony, his associate spoke of the "Cadillacs that they were all going to buy and the trip to Europe that he was going to take with the reduction that he was going to obtain in the purchase of the credits" (R. 150, App. 43).

In short, Blanco-Lugo had what he thought was a fool-proof scheme to buy dollars for fifty cents. The Chamber of Wholesalers was totally ignorant of who the possible purchaser of the supermarkets was. It would be eager to realize even fifty cents on the dollar for its debts. Blanco-Lugo would buy the debts at one-half of their true value; realize one hundred cents on the dollar on them when IBEC bought the supermarkets; give, as he testified he magnanimously planned to do, some proportion of the saving to IBEC; and still be left with a substantial profit (R. 150, App. 44). The Chamber, in fact, acted as Blanco-Lugo had hoped, only insisting on a settlement of sixty-two and one-half cents on the dollar, and Blanco-Lugo paid the

Chamber approximately $105,000 of his own money in return for the claims of the Chamber against the supermarkets (R. 30, App. 14).

Unfortunately for Blanco-Lugo, this plan of outwitting the Puerto Rican merchants with whom he was dealing backfired. IBEC did not accept Gonzalez's recommendation of purchasing the supermarkets. The responsible officers of IBEC refused to buy the supermarket chain at all (R. 234, App. 97). Blanco-Lugo then found himself in the position of having paid $105,000 of his own money for claims against the supermarkets which were no longer particularly valuable. To save himself from this precarious position, he brought suit against IBEC and Gonzalez asserting that the petitioner, through Gonzalez, had authorized him to purchase the claims against the supermarkets for the petitioner's account.

Apart from the inherent improbability of Blanco-Lugo's contention that a reputable American firm coming to Puerto Rico would wish to make its debut by secretly taking advantage of an organization of Puerto Rican wholesalers, Blanco-Lugo's contention was vigorously denied by the officers of IBEC (R. 18, R. 20, App. 5-7). Blanco-Lugo presented no evidence showing that either he or Gonzalez had been authorized by IBEC to purchase either the supermarkets or the claims against them. Gonzalez testified he had no authority to purchase the credits or the supermarkets, (R. 22, App. 8). The Trial Judge in his findings of fact made no finding that either Blanco-Lugo or Gonzalez had been authorized by IBEC to purchase the supermarkets or the credits. The furthest Gonzalez himself ever went with respect to the purchase of the supermarkets themselves was to make a recommendation (R. 27, App. 12). The only findings on agency which the Trial Judge made are findings 14, 15 and 16 that Gonzalez acted "in

the name of IBEC" and that the transaction was for the benefit of IBEC and incidental "to the principal negotiation" (R. 33, App. 15-16).

Despite the absence of evidence or the crucial finding of fact that IBEC had authorized Gonzalez to buy the supermarkets and the credits as an incident to the purchase of the supermarkets, the Trial Judge in his conclusions of law ruled that Gonzalez had acted at all times as IBEC's agent and that he had authorized Blanco-Lugo to make the purchases and had authority from IBEC so to do (R. 33, App. 16). This conclusion of law was reached without a shred of supporting evidence in the record, as may be seen from the respondent's own testimony in this record (R. 113-179, App. 17-64), and from the depositions of petitioner's officers (R. 18-24, App. 5-7). It was reached without any finding of fact to support it. It was reached at the same time that the judge dismissed the case against Gonzalez. Moreover, Judge Polo's judgment went further and showed bias on its face. He found that the petitioner had acted "with obstinacy" in defending this unjustified claim at all (R. 35, App. 17). He ordered the petitioner to pay punitive damages of $10,000 of attorney's fees, in addition to the judgment (R. 35, App. 17).

IBEC petitioned for a Writ of Review to the Supreme Court of Puerto Rico. It was unable to obtain a transcript of the oral evidence before the Superior Court within the thirty days after the entry of a copy of the Writ of Judgment permitted by the Rules of Civil Procedure, 32 *Laws of Puerto Rico Annotated*, Appendix, Rule 53 (R. 254, App. 111-112). There was, however, presented a record to the Supreme Court of Puerto Rico consisting of direct testimony of the respondent, sworn depositions of Messrs. Bradford and Levy, officers of the petitioner, and the sworn deposition of Gonzalez (R. 18-23, 113-179, App. 4-8, 17-64). On November 10, 1958, the Supreme Court of

Puerto Rico denied the Writ (R. 240, App. 101), and on December 5, 1958, it denied a motion of IBEC for reconsideration (R. 272, App. 113).

IBEC then sought review of the judgment of the Supreme Court of Puerto Rico under 28 U.S.C., Sec. 1293 providing that the Court of Appeals of the First Circuit had jurisdiction to review judgments of the Supreme Court of Puerto Rico. IBEC sought to enlarge the record on appeal by incorporating the transcript of the proceedings in the Superior Court which it had not been able to present to the Supreme Court of Puerto Rico. The Court of Appeals denied this motion May 21, 1959 (R. 5, App. 126). On November 6, 1959, the Court of Appeals granted the respondent's motion to affirm the judgment of the Supreme Court of Puerto Rico (R. 293, App. 130).

The law under which the Supreme Court of Puerto Rico acted in denying review is a new provision of Puerto Rican law, Law No. 115, enacted June 26, 1958, *Laws of Puerto Rico Annotated*, Title 4, Sec. 37. This law gives the Supreme Court of Puerto Rico jurisdiction in its complete discretion to refuse to review a nonconstitutional civil case decided by a lower tribunal. Under 28 U.S.C. § 1293, the Court of Appeals for the First Circuit has jurisdiction only to review final judgments of the Supreme Court of Puerto Rico. Accordingly, the effect of this statute, where the Supreme Court of Puerto Rico refused to exercise its discretion, was, in the opinion of the Circuit Court of Appeals, to leave open for review only the question of whether the Supreme Court of Puerto Rico abused its discretion in denying review. The statute effectively prevented a review on the merits by the Circuit Court of Appeals (R. 295, App. 132). Similarly, the statute prevents a review on the merits by this Court.

Reasons for Granting the Writ

This case involves a sharp challenge to the Federal judicial power by a legislature whose power is itself Federal in origin. Under the legislation enacted by Puerto Rico in 1958, Puerto Rico is now a Federal jurisdiction where litigants may be denied the possibility of having a final judgment by a lower court reviewed by this Court or by any Federal court. The petitioner has met this challenge by insisting on its right in the Court of Appeals for the First Circuit to a full Federal review under 28 U.S.C. § 1293. The Court of Appeals accepted the indirect legislative curbing of its power of review (R. 7, App. 128).* The petitioner seeks vindication in this Court of its right of access to the Court of Appeals and this Court which is denied it by the action of the court below.

The context of the issue is set by some basic postulates of Federal power and jurisdiction. "Both the territorial and Federal laws and the courts, whether exercising Federal or local jurisdiction, are creations emanating from the same sovereignty", *Puerto Rico* v. *Shell Co.*, 302 U.S. 253, 264 (1937). The local law of Puerto Rico and the decisions of its courts depend on the authorization given by Congress, and the delegation of Federal sovereignty to the legislature and Courts of Puerto Rico. It is the Federal character of the power of the Puerto Rican judiciary which permits Congress to lodge a power of review of these decisions in a Federal Court of Appeals. Under the relevant provisions of Article III, Sec. 2, Clause 1, of the Constitution of the United States, the judicial power extends only

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* Having rejected the petitioner's position in denying a motion to enlarge the record (R. 5, App. 126) the Court of Appeals failed to discuss the point at all in its second opinion (R. 293, App. 130) although the petitioner had pressed the point in its Points on Appeal and in its Motion for Oral Argument (App. 122, 125).

to cases arising under "the laws of the United States". It is thus plain that any power of review by the Federal Courts of Puerto Rican law depends upon the Federal origin of the judicial power of Puerto Rico. As this Court has further said: "The power which Congress constitutionally may delegate to a territory (subject of course to 'the right of Congress to revise, alter, and revoke,' *Hornbuckle* v. *Toombs*, 18 Wall. 648, 655) covers all matters 'which, within the limits of a State, are regulated by the laws of the State only,' ". *District of Columbia* v. *John R. Thompson Co., Inc.*, 346 U.S. 100, 106 (1953). It has never been doubted by this Court that the power of a territorial legislature is a power federally delegated by Congress.

What is the effect on these fundamental postulates as to Federal sovereignty and the Federal origin of Puerto Rican law of the creation of a Constitution for Puerto Rico by 64 Stat. 319, adopted July 3, 1950? This legislation purports to give Puerto Rico the status of a commonwealth. This is a term unique in our governmental system. Does it imply that a unique entity has been created? The Courts of Appeal have divided as to its significance. In *Detres* v. *Lions Building Corporation*, 234 F.2nd 596 (7th Cir. 1956), Judge Swaim quoted *Senate Report No. 1779*, 81st Cong., 2nd Sess., on the act authorizing the Puerto Rican Constitution, which said, "The bill under consideration would not change Puerto Rico's fundamental political, social, and economic relationship to the United States", and the Court concluded, "The above expressions all indicate that the persons interested in and responsible for the act did not think that Puerto Rico was thereby being changed from a territory to some other political entity." On the other hand, in *Mora* v. *Mejias*, 206 F. 2nd 377 (1st Cir. 1953), Chief Judge Magruder said at 387, "Puerto Rico has thus not become a State in the Federal Union like the 48 States, but it would seem to have become a

State within a common and accepted meaning of the word." He expressed doubt as to whether it was still a territory subject to Congressional regulation. Chief Judge Magruder has gone further. He has doubted the existence of jurisdiction to review local law decisions of the Supreme Court of Puerto Rico, *Figueroa v. People of Puerto Rico*, 232 F. 2nd 615, 618 (1st Cir. 1956), *Marquez v. Aviles*, 252 F. 2nd 715 (1st Cir. 1958). Thus, it was without reluctance in the present case that the Court of Appeals for the First Circuit accepted the Puerto Rican statute which, in effect, lopped off its jurisdiction. (R. 7, App. 128).

It is against this background of doubt raised by Chief Judge Magruder and the clash of opinions of the Circuit Courts of Appeals that the question is raised here as to whether the legislature of Puerto Rico had authority to make the review of the Supreme Court of Puerto Rico discretionary. If Judge Magruder is right, Puerto Rico is an entity unique in our system of Government; it does not derive its power from the Federal power; and it has the right to prevent or modify Federal review of decisions of its courts. If Judge Swaim is right, Puerto Rico is still a territory and it may not overstep the delegation of power made to it by Congress, *Granville Smith v. Granville Smith*, 349 U.S. 1 (1955). The petitioner asks whether the discretionary authority newly created by the Puerto Rico Legislature conflicts with an Act of Congress. This is a new important question whose solution depends on a relationship not yet authoritatively examined and defined by this Court, the relationship of the United States and the Commonwealth of Puerto Rico.

The Constitution of Puerto Rico exists by virtue of a statute of Congress approving it and stating that it "shall become effective in accordance with its terms." 64 Stat. 319 (1950). The Constitution of Puerto Rico so approved provided expressly in Article V, Sec. 3 that "The Supreme

Court shall be the court of last resort in Puerto Rico". The words "court of last resort" must be construed in the light of the existing Puerto Rican judicial system wherein at the time of the consideration of the Puerto Rican Constitution by Congress and at the time of its final proclamation, as effective the Supreme Court of Puerto Rico had an obligation to review all civil cases tried in the first instance in the Superior Court or in the District Court, the predecessor of the Superior Court, Act of May 15, 1950, c. 432, Section 35 (Puerto Rico), *Laws of Puerto Rico Annotated*, Title 4, Section 37 (prior to 1958 amendment). The words must then be considered in the light of the congressional scheme for Federal review of Puerto Rican decisions. Although, at the time it approved the Puerto Rican Constitution, Congress repealed 39 Stat. 965 dealing with the Puerto Rican judicial system, it pointedly did not repeal 28 U.S.C. 1293 which gave jurisdiction to the First Circuit to review "all final decisions of the Supreme Court of Puerto Rico."

In short, the Constitution of Puerto Rico, as finally presented to the Congress of the United States for approval and as approved by the Congress, solemnly averred that the Supreme Court of Puerto Rico should be the court of last resort under the Constitution and, with this provided for, Congress completed the judicial pattern by leaving in effect the jurisdiction of the Circuit Court of Appeals of the First Circuit to entertain appeals from final decisions of the Supreme Court of Puerto Rico while at the same time repealing other Federal provisions dealing with Puerto Rico. It would appear that Congress approved the constitution of Puerto Rico on the understanding that it was in harmony with the system of judicial review provided by 28 U.S.C. § 1293. Congress expressly provided in 66 Stat. 327 that the Constitution should not be amended unless the amendment was consistent with 64 Stat. 319 providing

that the Constitution was to be effective "in accordance with its terms". As this statute's legislative history shows, it was not intended to change fundamental political relationships with the United States, *S. Rep. No. 1779*, supra. It would seem that a change in the basic pattern of judicial review of Puerto Rican decisions is a change in the basic relationship. The petitioner, in claiming its rights under 28 U.S.C. § 1293, asserts that its position is fully supported by the limited delegation of power by Congress to Puerto Rico, a delegation which did not provide for a legislative amendment indirectly effecting a fundmental change in relationship and did not give the Puerto Rico legislature authority to undermine or modify 28 U.S.C. § 1293.

Further, the Court of Appeals in its first opinion in this case intimated that it might have authority to review the judgment of the Superior Court of Puerto Rico. (R. 8, App. 129). The Court of Appeals indicated that possibly 28 U.S.C. § 1293 need not be interpreted literally, but might be interpreted to permit review of the judgment of the highest court in Puerto Rico which had considered the case. If the Court had such authority it should have reviewed the judgment here, as the petitioner had plainly claimed an appeal not only from the Supreme Court of Puerto Rico but from the "validity" of the judgment of the Superior Court. (R. 273, App. 114). Consequently, the Court of Appeals erred either in its intimation that there was such a right of appeal or in failing to grant such an appeal. A right of direct review from the Superior Court of Puerto Rico, in cases where the Supreme Court of Puerto Rico has denied review, is of such importance that this Court should not leave the question up in the air, but should decisively resolve the issue.

The questions presented by the petition involve significant issues as to the extent of judicial review in the federal system and the extent to which a legislature may curb the

jurisdiction of a court within the federal framework of jurisprudence. They are intertwined with an issue of bias and prejudice which strikingly illustrates the danger of leaving decision on the merits to the unreviewable judgment of the Trial Court hearing the case. Accordingly, the petitioner here has raised a fourth significant question: if the Supreme Court of Puerto Rico has a right to exercise discretion in reviewing certain civil cases, is there not a patent and obvious and inescapable error and abuse of this discretion when it refuses to exercise this discretion to review a judgment whose partiality is proclaimed on its face? In this case, there can be no serious doubt that the Trial Judge in giving his opinion and judgment was gravely biased against the petitioner. He imposed liability on the petitioner on a theory of agency without finding any creation of agency by the petitioner. He dismissed the case against Gonzalez on the grounds that Gonzalez had acted within his authority, although Gonzalez had testified that he had no authority to purchase (R. 22, App. 8). He reached the remarkable result that Gonzalez, a lawyer authorized to inquire into the purchase of a chain of stores, whose power was limited to recommending the purchase price, somehow had authority to bind the petitioner to a purchase of $169,000 of debts of the store. This conclusion on the face of the opinion and judgment might raise a doubt as to the impartiality of Judge Polo. When there is added to this opinion and judgment the remarkable statement that the petitioner acted "with obstinacy",* and when a punitive amount of attorney's fees of $10,000 are assessed by the same judge, the conviction of bias is

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*"Obstinacy" has been defined by the Supreme Court of Puerto Rico as follows: "Litigants are guilty of obstinacy where they tenaciously oppose an action for nullity by denying in their answer facts alleged in a verified complaint which are entered in public records or are known from personal knowledge", *Heirs of Trias v. P.R. Leaf Tobacco Co.*, 59 P.R.R. 288 (1941).

inescapable. There is no need to cite the many cases holding that partiality infecting the entire judgment may be revealed by the damages assessed, e.g. *Wiezorek* v. *Ferris*, 176 Cal. 353, 167 P. 234 (1917); *McNamara* v. *McNamara*, 108 Wis. 613, 84 N.W. 901 (1901). In this case, Judge Polo's assessment of damages and his reasons therefor proclaim the prejudice.

Consequently, the petitioner urges that there are several grounds why certiorari should be granted according to the strict standards of Rule 19. A conflict of opinion exists among the Circuit Courts of Appeals as to the status of the Commonwealth of Puerto Rico, and the decision in this case hinges on the status of Puerto Rico. An important question of Federal law which has not been, but should be, settled by this Court is presented by the Puerto Rican legislation whose effect is to chop off the right to judicial review by the Circuit Court of Appeals for the First Circuit and by this Court. Moreover, the Court of Appeals for the First Circuit has left unresolved and awaiting decision by this Court the question of whether there is a Federal right under 28 U.S.C. §1293 to appeal from a judgment of the Superior Court of Puerto Rico to the Court of Appeals directly. Finally, there has been sanctioned such a departure by a lower court from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision.

Conclusion

For the foregoing reasons, it is respectfully submitted that this petition for the Writ of Certiorari should be granted.

Respectfully submitted,

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APPENDIX TO A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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IN THE COURT OF FIRST INSTANCE OF PUERTO RICO
SUPERIOR COURT — SAN JUAN PART

Civil No. CS-56-4126, Collection of Money

Luis Blanco-Lugo,
Plaintiff,

v.

International Basic Economy Corporation
and Jose G. Gonzalez,
Defendants.

COMPLAINT

1. Plaintiff, acting pursuant to instructions of the co-defendant Jose G. Gonzalez, given by said co-defendant, in the name and representation of the co-defendant International Basic Economy Corporation, acquired in June 1956, by purchasing from the Insular Chamber of Wholesale Merchants, under certain terms and conditions, for the co-defendant International Basic Economy Corporation, certain existing credits against the corporation Balet & Rodriguez, Inc.

2. In the alternative, the defendant Jose G. Gonzalez, lacking authorization or acting beyond the authorization bestowed on him, gave instructions to the plaintiff to carry out the undertaking referred to in the preceding paragraph.

3. To effectuate said deal, the plaintiff advanced and paid the sum of $104,765.80 plus $1,231.50 for incidental expenses.

4. The defendants have refused and do refuse to reimburse to plaintiff said sums of money advanced by him to accomplish said transaction.

5. The plaintiff prays the Court to enter judgment against the defendants ordering them to pay to plaintiff

the sum of $104,765.80 plus $1,231.50 and $20,000.00 for interest, costs, expenses and attorneys fees.

San Juan, Puerto Rico, August 31, 1956.

(s) F. Ponsa-Feliu
F. Ponsa-Feliu
I. Rodriguez-Moreno
E. Cortes-Garcia
Attorneys for Plaintiff

P.O. Box 2181
401 Plaza Building
San Juan, P. R.

In the United States District Court for
The District of Puerto Rico

Civil No. 9480

Luis Blanco-Lugo,
Plaintiff,
v.
International Basic Economy Corporation
and Jose G. Gonzalez,
Defendants.

ANSWER OF INTERNATIONAL BASIC ECONOMY CORPORATION

Filed Sept. 6, 1956

Defendant International Basic Economy Corporation for its answer to the complaint herein respectfully shows this Court and alleges:

First Defense

1. Denies the allegations contained in Paragraph 1 of the complaint.

2. On information and belief denies the allegations contained in Paragraph 2 of the complaint, except that it

admits that defendant Jose G. Gonzalez was not authorized by this defendant to enter into any of the transactions or take any of the steps alleged to have been taken by him in Paragraphs 1 and 2 of the complaint.

3. Denies the allegations contained in Paragraph 3 of the complaint.

4. Admits the allegations contained in Paragraph 4 of the complaint, except that it denies that plaintiff advanced the sums therein referred to, or any other sums, for the account of this defendant.

SECOND DEFENSE

1. The complaint fails to state a claim upon which relief may be granted.

WHEREFORE, defendant International Basic Economy Corporation having fully answered the complaint herein, demands judgment, together with its costs, dismissing this action.

San Juan, Puerto Rico, this 6th day of September 1956.

E. T. FIDDLER
CARLOS J. FAURE
ANDRES GUILLEMARD FAJARDO

By: (s) E. T. FIDDLER
Attorneys for Defendant
International Basic
Economy Corporation
6th Floor Chase Bank Bldg.
San Juan, Puerto Rico

Served with copy this 6th day of September 1956

F. PONSA-FELIU
L. RODRIGUEZ MORENO
E. CORTES-GARCIA

By: (s) F. PONSA-FELIU
Attorneys for Plaintiff

[Same Title—Superior Court]

MOTION FOR SUMMARY JUDGMENT

Defendant International Basic Economy Corporation prays that summary judgment be rendered in its favor pursuant to the provisions of Rule 56 of the Rules of Civil Procedure. In support of this motion we submit the following documents:

1. Sworn statement of Wallace B. Bradford, Vice President of IBEC.
2. Sworn statement of Lawrence H. Levy, Secretary of IBEC.
3. Sworn statement of Jose G. Gonzalez.

In addition to the aforesaid sworn statements the defendant International Basic Economy Corporation shall use in support of its motion for summary judgment, the following depositions:

1. Deposition of Luis Blanco-Lugo.
2. Deposition of Jose G. Gonzalez.
3. Deposition of Tomas I. Nido.
4. Deposition of Eugenio S. Belaval.

San Juan, Puerto Rico, April 11, 1957.

HARTZELL, FERNANDEZ & NOVAS
By: (s) JOSE L. NOVAS
For the International Basic Economy Corporation

CERTIFICATE OF SERVICE BY MAIL

I, JOSE L. NOVAS, one of the attorneys for the defendant in the above-entitled case, CERTIFY:

That today I have sent by mail in a duly stamped envelope a copy of the aforesaid motion to Mr. F. Ponsa-Feliu, one of the attorneys for the plaintiff, at the Plaza Building, San Juan, Puerto Rico, and to Mr. Jorge L.

Cordova, attorney for co-defendant Jose G. Gonzalez, at Ochoa Building, San Juan, Puerto Rico.

San Juan, Puerto Rico, April 11, 1957.

(s) JOSE L. NOVAS

State of New York
County of New York, ss.:

On this 19th day of February, 1957, before me, the undersigned Notary Public in and for the County and State of New York, personally appeared WALLACE D. BRADFORD, personally known to me and being duly sworn deposes and says:

That he is Vice President, and during the entire calendar year 1956 was Vice President of International Basic Economy Corporation, a new York corporation, and as such was in charge of and was personally familiar with the supermarket activities of said corporation in Puerto Rico, subject to and under the direction of the Board of Directors of the corporation;

That at no time during the calendar years 1956 and 1957 did deponent as Vice President of said corporation or in any other capacity, nor did any other person, firm or individual, acting under his direction, negotiate for the purchase of, offer to purchase, or purchase or in any manner acquire on behalf of International Basic Economy Corporation any claims whatsoever against Balet & Rodriguez, Inc., doing business in the Commonwealth of Puerto Rico, or against any corporation, firm or individual doing business under a similar name, or against any other person, firm or individual owning or having any interest in any store or stores in Puerto Rico known as Truman Supermarkets, or Truman Markets, or bearing the name "Truman".

(s) WALLACE D. BRADFORD
WALLACE D. BRADFORD

Sworn to and subscribed before me in the City of New York, this 19th day of February 1957.

(s) M. Elenore Jones,
M. Elenore Jones,
Notary Public

M. Elenore Jones
Notary Public State of New York
No. 31 7146300
Qualified in New York County
Term expires March 30, 1958

(County Clerk's Certificate).

State of New York
County of New York, ss.:

On this 19th day of February, 1957, before me, the undersigned Notary Public in and for the County and State of New York, personally appeared Lawrence H. Levy, personally known to me and being duly sworn deposes and says:

That he is Secretary and Treasurer of International Basic Economy Corporation, a corporation duly organized and existing under the laws of the State of New York, and as such has charge of the minute books and records of said corporation;

That Mr. Wallace D. Bradford is, and during all the calendar year 1956, was Vice President of said corporation, duly elected to said office by its Board of Directors, and as such was the executive officer in charge of the supermarket activities of said corporation in Puerto Rico, under and subject to the direction of the Board of Directors of the corporation;

That the Board of Directors of said corporation, as appears from the minutes of its meetings, which are in my charge, has at no time considered, deliberated upon, or authorized the said Wallace D. Bradford, as Vice Presi

dent or in any other capacity, or any other officer, employee or attorney representing said corporation, to negotiate for the purchase of, or to purchase or in any manner acquire any claims whatsoever against Balet & Rodriguez, Inc., doing business in the Commonwealth of Puerto Rico, or against any corporation, firm or individual doing business under a similar name, or against any other person, firm or individual owning or having any interest in any store or stores in Puerto Rico known as Truman Supermarkets, or Truman Markets, or bearing the name "Truman".

(s) LAWRENCE H. LEVY
LAWRENCE H. LEVY

Sworn to and subscribed before me in the City of New York, this 19th day of February, 1957.

(s) M. ELENORE JONES,
M. ELENORE JONES
Notary Public
M. ELENORE JONES
Notary Public State of New York
No. 31 7116300
Qualified in New York County
Term expires March 30, 1958

(County Clerk's Certificate)

United States of America
Commonwealth of Puerto Rico
City of San Juan, ss.:

On this 11th day of April 1957, there appeared personally before me Mr. Jose G. Gonzalez, of legal age, married, attorney at law, and resident of San Juan, Puerto Rico, and after being duly sworn states:

1. That he is one of the defendants in Civil Case No. CS-56-4126, before the Superior Court of Puerto Rico, San Juan Part, entitled Luis Blanco-Lugo, plaintiff, v. Inter-